

SECOND REGULAR SESSION

# HOUSE BILL NO. 1975

## 91ST GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES HOSMER, MAY (149), SHELTON, HILGEMANN,  
TROUPE (Co-sponsors), GAMBARO AND CARNAHAN.

Read 1<sup>st</sup> time February 19, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

4618L.011

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### AN ACT

To repeal sections 193.015, 193.065, 193.085, 193.115, 193.125, 193.145, 193.225, 193.245, 193.265, 473.697, and 490.620, RSMo, and to enact in lieu thereof eleven new sections relating to electronic creation and retrieval of birth and death records.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 193.015, 193.065, 193.085, 193.115, 193.125, 193.145, 193.225, 193.245, 193.265, 473.697, and 490.620, RSMo, are repealed and eleven new sections enacted in lieu thereof, to be known as sections 193.015, 193.065, 193.085, 193.115, 193.125, 193.145, 193.225, 193.245, 193.265, 473.697, and 490.620, to read as follows:

193.015. As used in sections 193.005 to 193.325, unless the context clearly indicates otherwise, the following terms shall mean:

(1) "Dead body", a human body or such parts of such human body from the condition of which it reasonably may be concluded that death recently occurred;

(2) "Department", the department of health and senior services;

(3) "Final disposition", the burial, interment, cremation, removal from the state, or other authorized disposition of a dead body or fetus;

(4) "Institution", any establishment, public or private, which provides inpatient medical, surgical, or diagnostic care or treatment or nursing, custodian, or domiciliary care, or to which persons are committed by law;

(5) **"Legitimate research"**, research conforming to or in accordance with generally acceptable standards or principles and conducted as a systematic study designed to develop or contribute to generalizable knowledge. The term "generalizable" means to emphasize

**EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

14 **the general character, rather than specific details of, to formulate general principles or**  
15 **inferences from particulars;**

16 (6) "Live birth", the complete expulsion or extraction from its mother of a child,  
17 irrespective of the duration of pregnancy, which after such expulsion or extraction, breathes or  
18 shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or  
19 definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the  
20 placenta is attached;

21 [(6)] (7) "Physician", a person authorized or licensed to practice medicine or osteopathy  
22 pursuant to chapter 334, RSMo;

23 [(7)] (8) "Spontaneous fetal death", a noninduced death prior to the complete expulsion  
24 or extraction from its mother of a fetus, irrespective of the duration of pregnancy; the death is  
25 indicated by the fact that after such expulsion or extraction the fetus does not breathe or show  
26 any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite  
27 movement of voluntary muscles;

28 [(8)] (9) "State registrar", state registrar of vital statistics of the state of Missouri;

29 [(9)] (10) "System of vital statistics", the registration, collection, preservation,  
30 amendment and certification of vital records; the collection of other reports required by sections  
31 193.005 to 193.325 and section 194.060, RSMo; and activities related thereto including the  
32 tabulation, analysis and publication of vital statistics;

33 [(10)] (11) "Vital records", certificates or reports of birth, death, marriage, dissolution  
34 of marriage and data related thereto;

35 [(11)] (12) "Vital statistics", the data derived from certificates and reports of birth, death,  
36 spontaneous fetal death, marriage, dissolution of marriage and related reports.

193.065. The state registrar may appoint local registrars, each of whom shall be a person  
2 employed by an official county health agency. Each local registrar shall be authorized under the  
3 provisions of section 193.255 and subsection 2 of section 193.265 to issue certifications of death  
4 records. A local registrar, with the approval of the state registrar, may appoint deputies **to carry**  
5 **out some or all of the responsibilities of the local registrar as provided in sections 193.005**  
6 **to 193.325 or the regulations promulgated pursuant thereto.** The local registrars shall  
7 immediately report to the state registrar violations of sections 193.005 to 193.325 or the  
8 regulations promulgated pursuant thereto.

193.085. 1. A certificate of birth for each live birth which occurs in this state shall be  
2 filed with the local registrar, or as otherwise directed by the state registrar, within seven days  
3 after such birth and shall be registered if such certificate has been completed and filed pursuant  
4 to the provisions of this section.

5 2. When a birth occurs in an institution or en route to an institution, the person in charge

6 of the institution or such person's designated representative shall obtain the personal data,  
7 prepare the certificate, [secure the signatures required] **certify that the child was born alive at**  
8 **the place and time and on the date stated either by signature or electronic process**  
9 **approved by the department**, and file the certificate pursuant to this section or as otherwise  
10 directed by the state registrar within the required seven days. The physician or other person in  
11 attendance shall provide the medical information required by the certificate and certify to the  
12 facts of birth within five days after the birth. If the physician or other person in attendance does  
13 not certify to the facts of birth within the five-day period, the person in charge of the institution  
14 shall complete [and sign] the certificate.

15 3. When a birth occurs outside an institution, the certificate shall be prepared and filed  
16 by one of the following in the indicated order of priority:

17 (1) The physician in attendance at or immediately after the birth;

18 (2) Any other person in attendance at or immediately after the birth;

19 (3) The father, the mother, or, in the absence of the father and the inability of the mother,  
20 the person in charge of the premises where the birth occurred.

21 4. When a birth occurs on a moving conveyance within the United States and the child  
22 is first removed from the conveyance in this state, the birth shall be registered in this state and  
23 such place shall be considered the place of birth. When a birth occurs on a moving conveyance  
24 while in international waters or air space or in a foreign country or its air space and the child is  
25 first removed from the conveyance in this state, the birth shall be registered in this state but the  
26 certificate shall show the actual place of birth insofar as can be determined.

27 5. If the mother was married at the time of either conception or birth, or between  
28 conception and birth, the name of the husband shall be entered on the certificate as the father of  
29 the child, unless:

30 (1) Paternity has been determined otherwise by a court of competent jurisdiction; or

31 (2) The mother executes an affidavit attesting that the husband is not the father and the  
32 putative father is the father, and the putative father executes an affidavit attesting that he is the  
33 father, and the husband executes an affidavit attesting that he is not the father. If such affidavits  
34 are executed, the putative father shall be shown as the father on the birth certificate and the  
35 signed acknowledgment of paternity shall be considered a legal finding of paternity. The  
36 affidavits shall be as provided for in section 193.215.

37 6. In any case in which paternity of a child is determined by a court of competent  
38 jurisdiction, the name of the father and surname of the child shall be entered on the certificate  
39 of birth pursuant to the finding and order of the court.

40 7. Notwithstanding any other law to the contrary, if a child is born to unmarried parents,  
41 the name of the father and other required information shall be entered on the certificate of birth

42 only if an acknowledgment of paternity pursuant to section 193.215 is completed, or if paternity  
43 is determined by a court of competent jurisdiction or by an administrative order of the division  
44 of child support enforcement.

45 8. If the father is not named on the certificate of birth, no other information about the  
46 father shall be entered on the certificate.

47 9. The birth certificate of a child born to a married woman as a result of artificial  
48 insemination **or in vitro fertilization**, with consent of her husband, shall be completed pursuant  
49 to the provisions of subsection 5 of this section.

50 10. **The certificate of birth of a child born to a surrogate mother shall list as mother**  
51 **the name and contain the personal data of the woman who physically carried and delivered**  
52 **the child. The father's information shall be completed on the certificate of birth as**  
53 **otherwise provided under this section. Upon receipt of an order from a court of competent**  
54 **jurisdiction determining that the actual biological mother is another woman, the**  
55 **department shall establish a new certificate of birth that lists the biological mother on the**  
56 **certificate. The new certificate shall be substituted for the original certificate of birth in**  
57 **the files, and the original certificate of birth and the court order shall not be subject to**  
58 **inspection except upon order of a court of competent jurisdiction.**

59 11. Either of the parents of the child, or other informant, shall attest to the accuracy  
60 of the personal data entered on the certificate in time to permit the filing of the certificate within  
61 the required seven days.

193.115. 1. If a delayed certificate of birth is rejected under the provisions of section  
2 193.105, a petition signed and sworn to by the petitioner may be filed with a court of competent  
3 jurisdiction for an order establishing a record of the date and place of the birth and the parentage  
4 of the person whose birth is to be registered.

5 2. Such petition shall be made on a form prescribed [and furnished] **or approved** by the  
6 state registrar and shall allege:

7 (1) That the person for whom a delayed certificate of birth is sought was born in this  
8 state;

9 (2) That no certificate of birth of such person can be found in the department or the  
10 office of any local custodian of birth certificates;

11 (3) That diligent efforts by the petitioner have failed to obtain the evidence required in  
12 accordance with section 193.105, and regulations adopted pursuant thereto;

13 (4) That the state registrar has refused to register a delayed certificate of birth;

14 (5) Such other allegations as may be required.

15 3. The petition shall be accompanied by a statement of the state registrar made in  
16 accordance with section 193.105 and all documentary evidence which was submitted to the state

17 registrar in support of such registration.

18         4. The court shall fix a time and place for hearing the petition and shall give the state  
19 registrar thirty days' notice of said hearing. The state registrar or [his] **the registrar's** authorized  
20 representative may appear and testify in the proceeding.

21         5. If the court finds, from the evidence presented, that the person for whom a delayed  
22 certificate of birth is sought was born in this state, it shall make findings as to the place and date  
23 of birth, parentage, and such other findings as may be required and shall issue an order, on a form  
24 prescribed [and furnished] **or approved** by the state registrar, to establish a certificate of birth.  
25 This order shall include the birth data to be registered, a description of the evidence presented,  
26 and the date of the court's action.

27         6. The clerk of the court shall forward each such order to the state registrar not later than  
28 the tenth day of the calendar month following the month in which it was entered. Such order  
29 shall be registered by the state registrar and shall constitute the certificate of birth.

193.125. 1. For each adoption decreed by a court of competent jurisdiction in this state,  
2 the court shall require the preparation of a certificate of decree of adoption on a form as  
3 prescribed [and furnished] **or approved** by the state registrar. The certificate of decree of  
4 adoption shall include such facts as are necessary to locate and identify the certificate of birth  
5 of the person adopted, and shall provide information necessary to establish a new certificate of  
6 birth of the person adopted and shall identify the court and county of the adoption and be  
7 certified by the clerk of the court. The state registrar shall file the original certificate of birth  
8 with the certificate of decree of adoption and such file may be opened by the state registrar only  
9 upon receipt of a certified copy of an order as decreed by the court of adoption.

10         2. Information necessary to prepare the report of adoption shall be furnished by each  
11 petitioner for adoption or the petitioner's attorney. The social welfare agency or any person  
12 having knowledge of the facts shall supply the court with such additional information as may be  
13 necessary to complete the report. The provision of such information shall be prerequisite to the  
14 issuance of a final decree in the matter by the court.

15         3. Whenever an adoption decree is amended or annulled, the clerk of the court shall  
16 prepare a report thereof, which shall include such facts as are necessary to identify the original  
17 adoption report and the facts amended in the adoption decree as shall be necessary to properly  
18 amend the birth record.

19         4. Not later than the fifteenth day of each calendar month or more frequently as directed  
20 by the state registrar the clerk of the court shall forward to the state registrar reports of decrees  
21 of adoption, annulment of adoption and amendments of decrees of adoption which were entered  
22 in the preceding month, together with such related reports as the state registrar shall require.

23         5. When the state registrar shall receive a report of adoption, annulment of adoption, or

24 amendment of a decree of adoption for a person born outside this state, he or she shall forward  
25 such report to the state registrar in the state of birth.

26         6. In a case of adoption in this state of a person not born in any state, territory or  
27 possession of the United States or country not covered by interchange agreements, the state  
28 registrar shall upon receipt of the certificate of decree of adoption prepare a birth certificate in  
29 the name of the adopted person, as decreed by the court. The state registrar shall file the  
30 certificate of the decree of adoption, and such documents may be opened by the state registrar  
31 only by an order of court. The birth certificate prepared under this subsection shall have the  
32 same legal weight as evidence as a delayed or altered birth certificate as provided in section  
33 193.235.

34         7. The department, upon receipt of proof that a person has been adopted by a Missouri  
35 resident pursuant to laws of countries other than the United States, shall prepare a birth  
36 certificate in the name of the adopted person as decreed by the court of such country. If such  
37 proof contains the surname of either adoptive parent, the department of health and senior services  
38 shall prepare a birth certificate as requested by the adoptive parents. Any subsequent change of  
39 the name of the adopted person shall be made by a court of competent jurisdiction. The proof  
40 of adoption required by the department shall include a copy of the original birth certificate and  
41 adoption decree, an English translation of such birth certificate and adoption decree, and a copy  
42 of the approval of the immigration of the adopted person by the Immigration and Naturalization  
43 Service of the United States government which shows the child lawfully entered the United  
44 States. The authenticity of the translation of the birth certificate and adoption decree required  
45 by this subsection shall be sworn to by the translator in a notarized document. The state registrar  
46 shall file such documents received by the department relating to such adoption and such  
47 documents may be opened by the state registrar only by an order of a court. A birth certificate  
48 pursuant to this subsection shall be issued upon request of one of the adoptive parents of such  
49 adopted person or upon request of the adopted person if of legal age. The birth certificate  
50 prepared pursuant to the provisions of this subsection shall have the same legal weight as  
51 evidence as a delayed or altered birth certificate as provided in sections 193.005 to 193.325.

52         8. If no certificate of birth is on file for the person under twelve years of age who has  
53 been adopted, a belated certificate of birth shall be filed with the state registrar as provided in  
54 sections 193.005 to 193.325 before a new birth record is to be established as result of adoption.  
55 A new certificate is to be established on the basis of the adoption under this section and shall be  
56 prepared on a standard certificate of live birth form.

57         9. If no certificate of birth has been filed for a person twelve years of age or older who  
58 has been adopted, a new birth certificate is to be established under this section upon receipt of  
59 proof of adoption as required by the department. A new certificate shall be prepared in the name

60 of the adopted person as decreed by the court, registering adopted parents' names. The new  
61 certificate shall be prepared on a delayed birth certificate form. The adoption decree is placed  
62 in a sealed file and shall not be subject to inspection except upon an order of the court.

193.145. 1. A certificate of death for each death which occurs in this state shall be filed  
2 with the local registrar, or as otherwise directed by the state registrar, within five days after death  
3 and shall be registered if such certificate has been completed and filed pursuant to this section.

4 2. If the place of death is unknown but the dead body is found in this state, the certificate  
5 of death shall be completed and filed pursuant to the provisions of this section. The place where  
6 the body is found shall be shown as the place of death. The date of death shall be the date on  
7 which the remains were found.

8 3. When death occurs in a moving conveyance in the United States and the body is first  
9 removed from the conveyance in this state, the death shall be registered in this state and the place  
10 where the body is first removed shall be considered the place of death. When a death occurs on  
11 a moving conveyance while in international waters or air space or in a foreign country or its air  
12 space and the body is first removed from the conveyance in this state, the death shall be  
13 registered in this state but the certificate shall show the actual place of death if such place may  
14 be determined.

15 4. The funeral director or person acting as such in charge of final disposition of the dead  
16 body shall file the certificate of death. The funeral director **or person in charge of the final**  
17 **disposition of the dead body** shall obtain:

18 (1) The personal data from the next of kin or the best qualified person or source  
19 available; and

20 (2) The medical certification from the person responsible for such certification.

21 5. The medical certification shall be completed, [signed] **attested to its accuracy either**  
22 **by signature or an electronic process approved by the department**, and returned to the  
23 funeral director or person acting as such within seventy-two hours after death by the physician  
24 in charge of the patient's care for the illness or condition which resulted in death. In the absence  
25 of the physician or with the physician's approval the certificate may be completed and [signed]  
26 **attested to its accuracy either by signature or an approved electronic process** by the  
27 physician's associate physician, the chief medical officer of the institution in which death  
28 occurred, or the physician who performed an autopsy upon the decedent, provided such  
29 individual has access to the medical history of the case, views the deceased at or after death and  
30 death is due to natural causes. The Social Security number of any individual who has died shall  
31 be placed in the records relating to the death and recorded on the death certificate.

32 6. When death occurs from natural causes more than thirty-six hours after the decedent  
33 was last treated by a physician, the case shall be referred to the county medical examiner or

34 coroner or physician or local registrar for investigation to determine and certify the cause of  
35 death. If the death is determined to be of a natural cause, the medical examiner or coroner or  
36 local registrar shall refer the certificate of death to the attending physician for such physician's  
37 certification. If the attending physician refuses or is otherwise unavailable, the medical  
38 examiner or coroner or local registrar shall sign the certificate of death within thirty-six hours.

39 7. If the circumstances suggest that the death was caused by other than natural causes,  
40 the medical examiner or coroner shall determine the cause of death and shall complete and sign  
41 the medical certification within seventy-two hours after taking charge of the case.

42 8. If the cause of death cannot be determined within seventy-two hours after death, the  
43 attending medical examiner or coroner or attending physician or local registrar shall give the  
44 funeral director, or person [acting as such] **in charge of final disposition of the dead body**,  
45 notice of the reason for the delay, and final disposition of the body shall not be made until  
46 authorized by the medical examiner or coroner, attending physician or local registrar.

47 9. When a death is presumed to have occurred within this state but the body cannot be  
48 located, a death certificate may be prepared by the state registrar upon receipt of an order of a  
49 court of competent jurisdiction which shall include the finding of facts required to complete the  
50 death certificate. Such a death certificate shall be marked "Presumptive", show on its face the  
51 date of registration, and identify the court and the date of decree.

193.225. To preserve vital records, the state registrar is authorized to prepare  
2 typewritten, photographic, electronic, **digital images**, or other reproductions of vital statistics  
3 certificates or reports. Such reproductions when certified by the state registrar shall be accepted  
4 as the original records. The documents from which permanent reproductions have been made  
5 and verified may be disposed of as provided by regulation.

193.245. It shall be unlawful for any person to permit inspection of, or to disclose  
2 information contained in, vital records or to copy or issue a copy of all or part of any such record  
3 except as authorized by this law and by regulation or by order of a court of competent  
4 jurisdiction or in the following situations:

5 (1) A listing of persons who are born or who die on a particular date may be disclosed  
6 upon request, but no information from the record other than the name and the date of such birth  
7 or death shall be disclosed;

8 (2) The department may authorize the disclosure of information contained in vital  
9 records for legitimate research purposes;

10 (3) To a qualified applicant as provided in section 193.255;

11 (4) **Copies of birth records more than ninety years old and death records more than**  
12 **fifty years old may be disclosed upon request. The department shall make such records**  
13 **and indexes to the records available on the Internet by December 31, 2004.**



193.265. 1. For the issuance of a certification or copy of a vital record, the applicant  
2 shall pay a fee of [ten] **thirteen** dollars to the state department of revenue. For each vital records  
3 fee collected [from August 28, 1992, to June 30, 1996] **on or after August 28, 2002**, the director  
4 of revenue shall credit four dollars to the general revenue fund, [three] **five** dollars to the  
5 children's trust fund as established pursuant to section 210.173, RSMo, [two] **three** dollars to the  
6 Missouri public health services fund established in section 192.900, RSMo, and one dollar shall  
7 be deposited in the "Endowed Care Cemetery Audit Fund", which is hereby created in the state  
8 treasury. Money in the endowed care cemetery audit fund shall be available by appropriation to  
9 the division of professional registration to pay its expenses in administering sections 214.270 to  
10 214.410, RSMo. All interest earned on money deposited in the endowed care cemetery audit  
11 fund shall be credited to the endowed care cemetery audit fund. Notwithstanding the provisions  
12 of section 33.080, RSMo, to the contrary, money placed in the endowed care cemetery audit fund  
13 shall not be transferred and placed to the credit of general revenue until the amount in the fund  
14 at the end of the biennium exceeds three times the amount of the appropriation from the endowed  
15 care cemetery audit fund for the preceding fiscal year. The money deposited in the public health  
16 services fund pursuant to this section shall be deposited in a separate account in the fund, and  
17 moneys in such account, upon appropriation, shall be used to automate and improve the state  
18 vital records system [and allow], **provide indexes and records on the Internet pursuant to**  
19 **subdivision (4) of section 193.245, support an Internet vital records application process,**  
20 **develop and support an Internet-based birth and death registration system, and support**  
21 **line costs for** local registrars to issue computer-generated certificates of birth and death records  
22 of persons who are born or who die in Missouri. [Beginning July 1, 1996, for each vital records  
23 fee collected, the director of revenue shall credit four dollars to the general revenue fund, five  
24 dollars to the children's trust fund and one dollar shall be credited to the endowed care cemetery  
25 audit fund.] **The Internet birth and death registration system shall be implemented no later**  
26 **than December 31, 2005.** For any search of the files and records, when no record is found, the  
27 state shall be entitled to a fee equal to the amount for a certification of a vital record for a  
28 five-year search to be paid by the applicant. For the processing of each legitimation, adoption,  
29 court order or recording after the registrant's twelfth birthday, the state shall be entitled to a fee  
30 equal to the amount for a certification of a vital record. Except whenever a certified copy or  
31 copies of a vital record is required to perfect any claim of any person on relief, or any dependent  
32 of any person who was on relief for any claim upon the government of the state or United States,  
33 the state registrar shall, upon request, furnish a certified copy or so many certified copies as are  
34 necessary, without any fee or compensation therefor.

35 2. For the issuance of a certification of a birth or death record by the local registrar, the  
36 applicant shall pay a fee of [ten] **thirteen** dollars to the official county health agency. A certified

37 copy of a death record by the local registrar can only be issued within twenty-four hours of  
38 receipt of the record by the local registrar. Computer-generated certifications of death records  
39 may be issued by the local registrar after twenty-four hours of receipt of the records. The fees  
40 paid to the official county health agency shall be retained by the local agency for local public  
41 health purposes.

473.697. Whenever application shall be made to any probate division for letters of  
2 administration upon the estate of any person supposed to be dead, because of the absence of such  
3 person for five consecutive years from the place of [his] **such person's** last known domicile  
4 within this state, **or because such person was exposed to a specific peril of death due to an**  
5 **actual or suspected terrorist event**, or because, having been a resident of this state, such person  
6 has heretofore gone from and has not returned to this state for five consecutive years, or, because,  
7 having been such resident of this state, such person shall hereafter go from and shall not return  
8 to this state for five consecutive years, or, because being a resident of this state, such person shall  
9 have so concealed or conducted himself **or herself** within this state that [he] **such person** shall  
10 not have been heard of for five consecutive years by the judge of the probate division having  
11 jurisdiction of [his] **such person's** estate, or by the persons interested therein, then said court,  
12 if satisfied that the applicant would be entitled to such letters if the supposed decedent were in  
13 fact dead, shall cause a notice to such supposed deceased person to be published in a newspaper,  
14 published in the county, once a week for four consecutive weeks, setting forth the fact that such  
15 application has been made, together with notice that on a day certain, which shall be at least two  
16 weeks after the last publication of such notice, the court will hear evidence concerning the  
17 alleged absence of the supposed decedent, and the circumstances and duration thereof. The  
18 persons applying for such letters of administration shall file a petition stating the facts upon  
19 which such application is based and the place where such supposed deceased person resided  
20 when last heard from by [him] **such person** or by any person within [his] **such person's**  
21 knowledge.

490.620. If any person who shall have resided in this state go from and do not return to  
2 this state for five successive years, [he] **such person** shall be presumed to be dead in any case  
3 wherein [his] **such person's** death shall come in question, unless proof be made that [he] **such**  
4 **person** was alive within that time. **The fact that such person was exposed to a specific peril**  
5 **of death may be a sufficient basis for determining at any time after such exposure that he**  
6 **or she died less than five years after the date his or her absence commenced.**